

TANYA JOHNSON,)	Case No. 2:14-cv-00631-RFB-NJK
)	
Plaintiff(s),)	
)	ORDER GRANTING MOTION TO
)	STAY DISCOVERY
vs.)	
)	
DEPARTMENT OF THE AIR FORCE NELLIS)	
AIR FORCE BASE, et al.,)	(Docket No. 20)
)	
Defendant(s).)	

Pending before the Court is the United States' unopposed motion to stay discovery pending resolution of its motion to dismiss. Docket No. 20; *see also* Docket No. 15 (motion to dismiss). The Court finds this motion properly decided without oral argument. *See* Local Rule 78-2. For the reasons discussed more fully below, the motion to stay discovery is hereby **GRANTED**.

“The Federal Rules of Civil Procedure do not provide for automatic or blanket stays of discovery when a potentially dispositive motion is pending.” *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 601 (D. Nev. 2011). The case law in this District makes clear that requests to stay all discovery may be granted when: (1) the pending motion is potentially dispositive; (2) the potentially dispositive motion can be decided without additional discovery; and (3) the Court has taken a “preliminary peek” at the merits of the potentially dispositive motion and is convinced that the plaintiff will be unable to state a claim for relief. *See Kor Media Group, LLC v. Green*, 294 F.R.D. 579, 581 (D. Nev. 2013).¹

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¹ Conducting this preliminary peek puts the undersigned in an awkward position because the assigned district judge who will decide the motion to dismiss may have a different view of its merits. *See Tradebay*, 178 F.R.D. at 603. The undersigned's "preliminary peek" at the merits of that motion is not intended to prejudice its outcome. *See id.*

1 The Court finds each of these elements exists here. First, the pending motion to dismiss is
2 potentially case-dispositive as it raises the preliminary issue of the Court's subject matter jurisdiction
3 and will completely dispose of the case if granted. Second, the motion to dismiss can be decided
4 without discovery. Third, the Court is convinced that Plaintiff will be unable to state a claim pursuant
5 to Fed. R. Civ. P. 12(b)(6) because this Court lacks subject matter jurisdiction under Title VII.
6 Accordingly, the unopposed motion to stay discovery (Docket No. 20) is hereby **GRANTED**.

7 IT IS SO ORDERED.

8 DATED: January 15, 2015

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12 NANCY J. KOPPE
13 United States Magistrate Judge
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